

Assembly Joint Resolution No. 13

RESOLUTION CHAPTER 164

Assembly Joint Resolution No. 13—Relative to blood donation.

[Filed with Secretary of State September 14, 2010.]

LEGISLATIVE COUNSEL’S DIGEST

AJR 13, Ammiano. Blood donation.

This measure would request that the President of the United States encourage, and that the Secretary of the United States Department of Health and Human Services adopt, policies that repeal the current donor suitability and deferral policies of the federal Food and Drug Administration regarding the donation of blood by gay, bisexual, transgender, and heterosexual males.

WHEREAS, California law prohibits discrimination against individuals on the basis of actual or perceived sex, sexual orientation, gender identity, and gender-related appearance and behavior; and

WHEREAS, The American Red Cross (ARC) has joined the American Association for Blood Banks (AABB) and America’s Blood Centers (ABC) in asking for guidelines that treat all donors equally; and

WHEREAS, The current federal Food and Drug Administration (FDA) donor deferral policy, first established in 1983, effectively prohibits blood donation by men who have had sex with another man even one time since 1977; and

WHEREAS, The American Medical Association (AMA) House of Delegates and the HIV Medicine Association (HIVMA), within the Infectious Disease Society of America, have requested that the FDA abandon these current donor policies in favor of policies consistent with sound science; and

WHEREAS, The AABB, ABC, and ARC, on March 9, 2006, at the Blood Products Advisory Committee of the FDA, at a workshop titled “Behavior-Based Blood Donors Deferrals in the Era of Nucleic Acid Testing (NAT),” issued a joint statement affirming that they believe that the current lifetime deferral for men who have had sex with other men is medically and scientifically unwarranted and recommended that the deferral criteria be modified and made comparable with criteria for other groups at increased risk for sexual transmission of transfusion-transmitted infections; and

WHEREAS, It does not appear rational to broadly differentiate sexual transmission via responsible male-to-male sexual activity from transmission via responsible heterosexual activity on scientific grounds. To many, this differentiation is unfair, creates stigma without any justifiable public health imperative, and results in negative attitudes to blood donor eligibility criteria and blood collection facilities; and

WHEREAS, Blood banks in the United States routinely operate with a short blood supply. After significant disasters or national emergencies, the AABB, ABC, and ARC have each reported regions operating with less than two days supply of blood; and

WHEREAS, Many men who have sex with men are healthy, do not present a risk of introducing a transfusion transmissible infection such as HIV into the nation's blood supply, and wish to be donors without compromising the safety or reliability of the supply. These men wish to join their neighbors in expression of a common altruistic form of civic engagement; and

WHEREAS, The AABB, ABC, AMA, HIVMA, and ARC acknowledge the concern that a hasty relaxation of deferral criteria may add uncertainty to protection of the blood supply unless reliable data is available to avoid that result. The blood collectors are willing to assist in collecting data regarding the actual impact of changes in the deferral, in order to allow for informed decisionmaking, and for the development of additional, appropriate interventions to ameliorate the impact; and

WHEREAS, Technological advances such as individual NAT, pathogen inactivation, or added means of screening hold promise to substantially reduce the risk that transfusion transmissible infections from all donors, including men who have had sex with men, could be introduced into the blood supply, and federal advisory committees have encouraged the FDA to develop these technologies further; and

WHEREAS, In summary, the AABB, ABC, AMA, HIVMA, and ARC believe that the deferral period for men who have had sex with other men should be modified and that this consideration should also be extended to donors of human cells, tissues, and cellular and tissue-based products; and

WHEREAS, FDA guidelines followed by blood banks throughout the United States inadvertently create unjustified stigma directed towards gay, bisexual, transgender, and heterosexual males on the basis that they have had sex with another male since 1977; and

WHEREAS, The AABB, ABC, and ARC are required to follow the FDA guidelines, which consequently are in conflict with state nondiscrimination policies; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the California State Legislature calls upon the President of the United States to encourage, and the Secretary of the United States Department of Health and Human Services to adopt, policies that repeal the current donor suitability and deferral policies of the FDA regarding blood donation by men who have had sex with other men and, instead, direct the FDA to develop science-based policies consistent with the history described in this resolution; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of the United States Department of Health and Human Services, to the Speaker of the House of Representatives, to the Majority Leader of

the Senate, and to each Senator and Representative from California in the Congress of the United States.

O